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FOLEY & LARDNER 3000 K ST NW SUITE 500 WASHINGTON DC 20007-8696 SEP 1.5 2006

OFFICE OF PETITIONS

In re

Kemp, II., et al.

: DECISION ON APPLICATION

Application No. 09/971,087

: FOR PATENT TERM ADJUSTMENT

Filed: October 5, 2001

Attorney Docket No. 024051-0146

This decision is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT", filed February 8, 2006, notifying the Office of an error in Applicants' favor in the determination of patent term adjustment under 35 U.S.C. 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is <u>GRANTED</u>. The determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred** nine (109).

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is one hundred nine (109) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 12, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. §154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one thousand, four hundred thirty seven (1437) days.

The Office initially determined a patent term adjustment of one thousand, four hundred thirty-seven (1437) days based on an adjustment for PTO delay of one thousand, four hundred thirty seven (1437) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. §1.703(a)(1), reduced by zero (0) days of applicant delay.

The adjustment of one thousand, four hundred thirty-seven (1437) days was is error. Applicants filed the application on October 5, 2001. The Office mailed the first Office action under 35 USC when the Notice of Allowability was mailed on March 24, 2003. Accordingly, PTO delay should only have been assessed as one hundred nine (109) days, not one thousand, four hundred thirty-seven (1437) days.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is one hundred nine (109) days.

As the instant letter was submitted to advise the Office of an error in Applicants' favor, no fee was required.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Kery Fries

Keng A Fun

Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enc: Copy of adjusted PAIR calculation

[&]quot;A written restriction requirement, a written election of species requirement, a requirement for information under 1.105, an action under Ex parte Quayle, 1935 Comm'r Dec. 11 (1935), and a notice of allowability (PTOL-37) are each an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, each of these Office actions is a notification under 35 U.S.C. 132." Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 1239 OG 14 (Oct. 3 2000).

Day: Thursday Date: 9/14/2006

Time: 14:08:15

PALM INTRANET

PTA Calculations for Application: <u>09/971087</u>								
Application Filing Date:	10/05/2001	PTO Delay (PTO):	1437					
Issue Date of Patent:		Three Years:	0					
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0					
Post-Issue Petitions:	0	Total PTA (days):	109					
PTO Delay Adjustment:	-1328							

File Contents History							
Number	Date	Contents Description	PTO	APPL	START		
47	09/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO		1437			
46	09/14/2006	ADJUSTMENT OF PTA CALCULATION BY PTO	109				
36	01/12/2006	MAIL NOTICE OF ALLOWANCE	1437		1		
35	10/20/2003	ISSUE REVISION COMPLETED					
34	11/13/2001	ISSUE REVISION COMPLETED					
33	11/14/2002	ISSUE REVISION COMPLETED					
32	12/18/2002	ISSUE REVISION COMPLETED					
31	02/11/2003	REFERENCE CAPTURE ON IDS					
30	05/11/2005	ISSUE REVISION COMPLETED					
28	05/11/2005	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED					
27	05/03/2005	NOTICE OF ALLOWABILITY					
26	10/20/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED					
24	03/21/2003	DATE FORWARDED TO EXAMINER					
23	03/10/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)					
	03/21/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)					
21	02/11/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED					
		WORKFLOW - REQUEST FOR RCE - BEGIN					
19	12/18/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED					
18	10/16/2002	MISCELLANEOUS INCOMING LETTER					
17	11/14/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED					

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16	09/30/2002	NOTICE OF ALLOWABILITY			
15	09/30/2002	CASE DOCKETED TO EXAMINER IN GAU			
14	09/27/2002	PRELIMINARY AMENDMENT			
13	04/23/2002	CASE DOCKETED TO EXAMINER IN GAU			
12	03/04/2002	CASE DOCKETED TO EXAMINER IN GAU			
11	02/19/2002	APPLICATION DISPATCHED FROM OIPE			
10	02/11/2002	APPLICATION IS NOW COMPLETE			
8		A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	01/29/2002	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
6	01/29/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC	·		
5	01/29/2002	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
4	11 1 1 1 1 7 2 CO / 7 1 1 1 1 1	NOTICE MAILEDAPPLICATION INCOMPLETE FILING DATE ASSIGNED			
3	10/29/2001	CORRESPONDENCE ADDRESS CHANGE			
2	10/15/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	10/05/2001	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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